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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission  
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JUL 17 2008

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IN THE MATTER OF THE  
APPLICATION OF DEL RIO WATER  
COMPANY, LLC, FOR A CERTIFICATE  
OF CONVENIENCE AND NECESSITY  
TO PROVIDE WATER SERVICE IN  
YAVAPAI COUNTY, ARIZONA.

Docket No. W-04074A-08-0094

COMMENTS ON STAFF REPORT

Del Rio Water Company, LLC ("Del Rio" or "Company") hereby files comments to the Staff Report in the Matter of Del Rio Water Company, LLC for a Certificate of Convenience and Necessity ("CC&N") to Provide Water Service in Yavapai County, Arizona.

**1.0 PRELIMINARY STATEMENT**

Del Rio is seeking approval of its application for a CC&N to provide water service in the Town of Chino Valley, Arizona. While generally agreeing with the Staff Report

1 and accepting the majority of the Staff Report Adjustments, Del Rio is hereby requesting  
2 3 modifications to the Staff Report that are fairly significant to the Company and are in  
3 the public interest. (See Exhibits 1 and 2).  
4

## 5 **2.0 DEL RIO CAPITAL STRUCTURE**

6 Staff is concerned about the quality of ownership of Arizona water utilities. Del  
7 Rio understands that concern and shares it as well. However, Del Rio cannot support  
8 Staff's proposal for Del Rio's capital structure being comprised of 30% Advances in Aid  
9 of Construction ("AIAC") and/or Contributions in Aid of Construction ("CIAC") and  
10 70% owner equity, when it comes at the price of ratepayers.  
11  
12

13 Staff's proposed equity structure that mandates Del Rio only allow developers to  
14 fund 30% of its plant (with a repayment structure of 10% as is normally authorized  
15 pursuant to Commission rules over 10 years) forces ratepayers to pay higher rates. (See  
16 Exhibit 2). Del Rio does not believe that the Arizona Corporation Commission  
17 ("Commission") will want to sanction higher rates for consumers for the sake of Staff  
18 wishing to maintain an arbitrary equity percentage.  
19  
20

21 To see how drastic this scenario is for ratepayers, we have to look at an average  
22 monthly bill when applying Staff's equity ratio of 30% AIAC and/or CIAC and 70%  
23 owner equity over time.  
24

25 Over the 10 year projected Developer AIAC and Refunds in Del Rio's Exhibit 2,  
26 per Commission rules, developers receive 10% of revenue as their AIAC payment over  
27 10 years. Due to the difference in equity ratios proposed by Staff and Del Rio, the  
28 additional amount paid to developers under Staff's proposal is more than \$1.2 million

1 dollars. That \$1.265 million dollars will be funded by Staff's proposed rates and paid by  
2 the average ratepayer every month to the tune of \$12.22 per customer as the result of the  
3 difference between Staff's proposed rates and Del Rio's proposed rates (*See Exhibit 2*).  
4 Over one year, the average customer is paying an extra \$146.64 because of the change in  
5 capital structure proposed by Staff.  
6

7 Del Rio believes that Staff's proposed equity structure is not in the public interest  
8 because it winds up costing the ratepayers real dollars in the here and now and Staff has  
9 not indicated that any discernible benefit will result from its proposed capital structure for  
10 the average ratepayer. Based on the capital structure as proposed by Del Rio and Staff,  
11 there is a difference of \$12.22 per month between Staff's proposed rates and Del Rio's  
12 proposed rates, and that simply is not in the public interest.  
13  
14

### 15 **3.0 FRANCHISE**

16

17 Del Rio is requesting additional time to secure a franchise from the Town of Chino  
18 Valley. Del Rio is working with the Town of Chino Valley on this issue. The owners of  
19 Del Rio have found that the negotiation of agreements with the Town can be very slow.  
20 After the franchise is approved by the Town, an election of the current residents of the  
21 Town will be required to approve the franchise because the Town is an incorporated  
22 municipality. By statute, that election can only occur on one of four dates during the  
23 year. Del Rio believes that it could easily require more than 365 days to get Town  
24 Council and voter approval of the franchise agreement and Del Rio does not want to  
25 jeopardize the CC&N due to a requirement outside of its control. Therefore, Del Rio  
26 requests that it be required to file with Docket Control, as a compliance item in this  
27  
28

1 docket, a copy of the franchise agreement from the Town of Chino Valley for the  
2 requested area within 2 years of the decision in this matter.

#### 3 4 **4.0 PERFORMANCE BOND/LETTER OF CREDIT**

5 Del Rio does not believe that this situation requires a performance bond. Staff has  
6 cited to 3 cases in its Staff Report where this Commission has required performance  
7 bonds, but they were not in initial CC&N establishment cases, but in extension cases  
8 which were extremely unusual and distinct where the particular utility had a history of  
9 lawsuits and legal woes. (See Staff Report at p. 6 citing Decision Nos. 68235, 68236,  
10 68237 (Johnson Utilities Company)).  
11

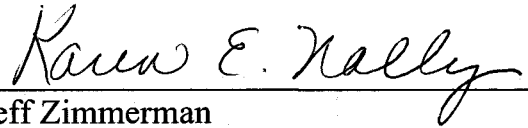
12  
13 In the current situation, Del Rio is an LLC in good standing with the Commission.  
14 As Staff stated in the Staff Report, Del Rio has hired Fann Environmental, Inc., to be the  
15 on-site manager and provide certified operator services. Fann Environmental, Inc. is the  
16 same certified operator that the Town of Chino Valley uses to run the Town of Chino  
17 Valley's sewer system as Staff noted in its Staff Report.  
18

19 Staff's reasons to ask for a performance bond as set forth in the Staff Report do  
20 not apply to Del Rio. The Commission Decisions referring to Johnson Utilities' CC&N  
21 extensions that required bonds do not apply to Del Rio's situation; Fann Environmental,  
22 Inc. who will be operating the utility does have substantial experience in running a utility  
23 as noted in the Staff Report; and the financial strength of the utility is not in jeopardy due  
24 to inadequate funding or pending lawsuits. Del Rio has addressed each of Staff's  
25 concerns and they are non-issues as related to Del Rio. Therefore, Del Rio requests that  
26 this Staff recommendation not be adopted.  
27  
28

1 **5.0 CONCLUSION**

2 Del Rio requests that the Commission recommend an order consistent with the  
3  
4 Staff Report as modified by Del Rio's comments herein.

5 MOYES SELLERS & SIMS LTD.

6 

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14

15 Original and 15 copies of the foregoing  
16 filed this 17 day of July, 2008, with:

17  
18 Docket Control  
19 Arizona Corporation Commission  
20 1200 West Washington  
21 Phoenix, Arizona 85007

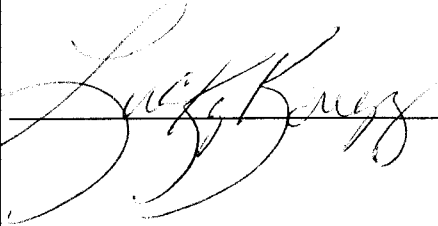
22 Copy of the foregoing mailed this  
23 17 day of July, 2008, to:

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12   
13 \_\_\_\_\_  
14

# EXHIBIT 1

## 5-Year Projected Statement of Income Revised for Staff Report Adjustments Accepted

				Year 1	Year 2	Year 3	Year 4	Year 5
<b>Revenue</b>								
Metered Sales to Residential Customers				\$ 37,797	\$ 127,564	\$ 259,853	\$ 425,214	\$ 595,299
Other Water Revenue				2,000	2,750	4,250	4,500	4,500
<b>Total Projected Revenue</b>				<b>\$ 39,797</b>	<b>\$ 130,314</b>	<b>\$ 264,103</b>	<b>\$ 429,714</b>	<b>\$ 599,799</b>
<b>Variable Expenses</b>								
			Minimum					
Pumping Power	\$ 0.40	Per 1,000 gals		\$ 2,108	\$ 7,115	\$ 14,494	\$ 23,718	\$ 33,205
Repairs & Maintenance	\$ 0.75	Per cust/month	\$ 500	500	1,215	2,475	4,050	5,670
Water Treatment/Testing	\$ 0.50	Per 1,000 gals		2,635	8,894	18,118	29,647	41,506
Billing, Postage, Operations	\$ 10.00	Per cust/month	\$ 7,500	7,500	16,200	33,000	54,000	75,600
<b>Total Variable Expenses</b>				<b>\$ 12,744</b>	<b>\$ 33,424</b>	<b>\$ 68,087</b>	<b>\$ 111,415</b>	<b>\$ 155,981</b>
<b>Other Expenses</b>								
Depreciation				\$ 124,335	\$ 250,076	\$ 253,656	\$ 258,130	\$ 262,731
Amortization of CIAC								
Miscellaneous (a)		0.500%		199	652	1,321	2,149	2,999
Insurance (b)		0.030%		1,698	1,716	1,742	1,770	1,798
Income Taxes				-	-	-	-	-
Property Taxes (c)				2,197	3,778	7,642	14,175	21,733
<b>Total Other Expenses</b>				<b>\$ 128,429</b>	<b>\$ 256,222</b>	<b>\$ 264,360</b>	<b>\$ 276,223</b>	<b>\$ 289,262</b>
<b>Total Projected Operating Expenses</b>				<b>\$ 141,173</b>	<b>\$ 289,646</b>	<b>\$ 332,447</b>	<b>\$ 387,638</b>	<b>\$ 445,242</b>
<b>Operating Income/(Loss)</b>				<b>\$ (101,376)</b>	<b>\$ (159,332)</b>	<b>\$ (68,344)</b>	<b>\$ 42,075</b>	<b>\$ 154,557</b>
Interest Income				\$ -	\$ -	\$ -	\$ -	\$ -
Interest Expense				-	-	-	-	-
<b>Net Income</b>				<b>\$ (101,376)</b>	<b>\$ (159,332)</b>	<b>\$ (68,344)</b>	<b>\$ 42,075</b>	<b>\$ 154,557</b>

(a) Calculated at .5% of revenue per year

(b) Calculated at .03% of plant in service

(c) ADOR property tax calculation

## EXHIBIT 2

**Del Rio Water Company**  
**Comparison of Company Revised and Staff Proposed 10-Year Projected Developer AIAC and Refunds**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Totals
<b>Del Rio Amended Filing</b>												
Developer Advances	\$2,717,005	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$2,717,005
Projected Annual Revenue	37,796	127,560	259,845	425,201	595,282	765,363	935,443	1,105,524	1,275,604	1,445,685		\$ 6,973,303
Developer Adv Refunded @ 10%	-	3,780	12,756	25,985	42,520	59,528	76,536	93,544	110,552	127,560	144,568	\$ 697,330
<b>Cumulative Balance</b>	<b>\$2,717,005</b>	<b>\$2,713,225</b>	<b>\$2,700,469</b>	<b>\$ 2,674,485</b>	<b>\$ 2,631,965</b>	<b>\$2,572,436</b>	<b>\$2,495,900</b>	<b>\$2,402,356</b>	<b>\$2,291,804</b>	<b>\$2,164,243</b>	<b>\$2,019,675</b>	
<b>Staff Proposed</b>												
Developer Advances	\$1,559,741	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,559,741
Projected Annual Revenue	43,728	147,582	300,630	491,940	688,716	884,131	1,080,605	1,277,078	1,473,552	1,670,026		\$ 8,057,988
Developer Adv Refunded @ 10%		4,373	14,758	30,063	49,194	68,872	88,413	108,060	127,708	147,355	167,003	\$ 805,799
<b>Cumulative Balance</b>	<b>\$ 1,559,741</b>	<b>\$ 1,555,368</b>	<b>\$ 1,540,610</b>	<b>\$ 1,510,547</b>	<b>\$ 1,461,353</b>	<b>\$ 1,392,481</b>	<b>\$ 1,304,068</b>	<b>\$ 1,196,008</b>	<b>\$ 1,068,300</b>	<b>\$ 920,945</b>	<b>\$ 753,942</b>	

	Del Rio Rev	Staff
Cost of Developer Construction of Plant/Advance ("AIAC") amt	\$ 2,717,005	\$ 2,717,005
Payment to Developer to attain Staff recommended 30% AIAC		(1,157,264)
Total of 10% of revenue AIAC repayments for 10 years	(697,330)	(805,799)
Net Cost to Developer for Plant	\$ 2,019,675	\$ 753,942
Additional amount to Developer for plant as recomm by Staff		\$ 1,265,732
<i>Average monthly bill</i>	\$ 78.74	\$ 90.96
Increase in average monthly bill based on Staff's recommendation	12.22	
Annualized per customer	146.64	